

Frederick County Ethics Commission
Minutes for the Public Meeting of Monday, August 13, 2012

Present: Hayden B. Duke, Chair
 Paula C. Bell, Commission Member
 Philip A. Dacey, Commission Member
 Jesse Goode, Jr., Commission Member
 Harold Otis, Commission Member
 E. Donald Foster, Alternate Commission Member
 Linda B. Thall, Senior Assistant County Attorney

Mr. Duke called to order a meeting of the Frederick County Ethics Commission at 7:00 p.m. on August 13, 2012, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the July 9, 2012 meeting minutes – A draft of the minutes was emailed to the Commission members before the meeting. There were no requests for changes.

MOTION: Mr. Otis made a motion to approve the minutes. Mr. Goode seconded the motion, which was approved unanimously.

Update on review of financial disclosure statements – All Commission members stated that they have completed their review of the annual financial disclosure statements. The members agreed that no further action on the financial disclosure statements is needed. The members discussed changes to the review process for filings made in future years, agreeing that the majority of the disclosure statements should be divided up so that it is not necessary for each member to review all of the disclosures filed. Mr. Otis pointed out that there are some disclosures that should be reviewed by the entire Ethics Commission and there was agreement that this should take place.

Discussion of post-employment restrictions on employment – The Commission discussed its plan to adopt regulations to provide general guidance on application of the post-employment restrictions in Section 1-7.1-5(E)(1) of the Ethics Ordinance. The members reviewed guidance provided by the State Ethics Commission to State officials and employees on the State's post-employment provisions and agreed to use that guidance as the basis for drafting the Commission's Regulations.

MOTION: Mr. Otis made a motion to adopt in principle the guidance published by the State Ethics Commission in its Summary of Post-Employment and Related Limitations and to direct the Senior Assistant County Attorney to draft regulations for the Commission's consideration using that guidance as a model. Mr. Foster seconded the motion, which was approved unanimously.

The Senior Assistant County Attorney also advised the Commission that she updated the County Manager's Office on the status of the Commission's progress, as previously directed.

Update on Mr. Duke's discussion with a County Commissioner and approval of Advisory Opinion No. 12-04 – Mr. Duke provided information to the Commission on the conversation he had with a County Commissioner after the Ethics Commission's last meeting. They discussed the Commissioner's posting of a position statement on County letterhead on the County's website. The Commissioner understood the Ethics Commission's concerns and removed the posting from the website. The Commission members commended Mr. Duke for his handling of this matter. The Commission then considered draft Advisory Opinion No. 12-04. The Commission approved and signed the Advisory Opinion as drafted. The Senior Assistant County Attorney will provide copies of the Advisory Opinion to the County Commissioners, County Manager, County Attorney and the two individuals who contacted the Ethics Commission about this matter.

Discussion of a request for an investigation and an advisory opinion on a posting on the County's website by a County Commissioner – After its July meeting, the Ethics Commission received correspondence from a County resident questioning a County Commissioner's posting of a position statement issued in response to a newspaper request for comment on a recent Supreme Court decision. The position statement was on County letterhead and posted on the County's website. In addition to commenting on the Court decision, the statement urged the election of "conservative, pro-business, pro-jobs" candidates. The Commission concluded that Advisory Opinion No. 12-04 adequately addresses the concerns raised in the correspondence and agreed that no further investigation or opinion is warranted.

Discussion of a request for an investigation into conflict-of-interest allegations related to County Commissioner action on funding for Jefferson Tech Park – The Commission noted that this request was not received until the day before the initial funding vote by the County Commissioners, leaving insufficient time to consider the request before that vote. The Commission also noted that the County Attorney's Office advised the County Commissioners before the first vote that there was no conflict of interest under the Ethics Ordinance. The Commission discussed the allegations and agreed that there was no conflict of interest. The Senior Assistant County Attorney was asked to prepare a letter for the Chairman's signature.

Discussion of changes to the Commission's Standard Operating Procedures – A revised draft of the Commission's Standard Operating Procedures was provided to the Commission members prior to the meeting. The procedures were revised to (1) request that persons filing complaints or asking for opinions provide their email address along with other contact information, (2) extend the deadlines for responding to requests for Advisory Opinions and resolving complaints, and (3) provide more flexibility in the way that complaints are decided so that formal hearings are not mandatory. The Commission discussed the draft and asked for two additional changes. The procedure should clarify that the subject of the complaint has the right to legal counsel in Ethics Commission

meetings or hearings, but that the subject of the complaint is responsible for paying the attorney's legal fees. The procedure should also make it clear that the options for resolving complaints contained in Section V.E.2 are not limited to the three options listed.

MOTION: Mr. Otis moved to approve the Standard Operating Procedures with the two amendments agreed upon. Ms. Bell seconded the motion, which was approved unanimously.

The Commission members agreed to sign the new Standard Operating Procedures at its next meeting.

Discussion of Commission bylaws – Mr. Duke suggested that the Ethics Commission adopt bylaws providing for the election of a vice chairman, calling for an annual election of officers, and setting a two-year limit on a member serving as chairman or vice-chairman. The other Commission members agreed with Mr. Duke's suggestions. The members also agreed that future amendments to the bylaws could be made upon a majority vote. Mr. Duke will draft the bylaws and circulate them for consideration.

Ethics Commission website – Mr. Dacey distributed new language for the Ethics Commission's website that would advise persons on how to file an ethics complaint. The Commission members suggested amendments to request that an email address be provided on the complaint and to reflect the new deadline in the Standard Operating Procedures for responding to complaints. The new language, as amended, was approved. The Senior Assistant County Attorney was directed to draft an optional complaint form that would assist persons who want to file a complaint in meeting the requirements for complaints contained in the Commission's Standard Operating Procedures.

Update on Lobbying Activity Report filings – The Senior Assistant County Attorney advised the Commission that Lobbying Activity Reports were due from registered lobbyists on July 31. Most of the reports have been received. Those lobbyists who have not filed their reports will be contacted and reminded of the deadline. Once all of the reports are received, the spending reports required by the ordinance will be prepared for the Commission's review.

Adjournment

MOTION: Mr. Otis moved to adjourn the meeting. Ms. Bell seconded the motion, which was approved unanimously.

The Ethics Commission adjourned its meeting at 7:50 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney